



U.S. Department of Justice

United States Attorney
Southern District of New York

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June 21, 2024

BY ECF

The Honorable Kenneth M. Karas
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

Re: *United States v. Nicholas Tartaglione*, S4 16 Cr. 832 (KMK)

Dear Judge Karas:

The Government respectfully submits this letter motion pursuant to Federal Rule of Criminal Procedure 36 seeking correction of a clerical ambiguity in defendant Nicholas Tartaglione's written judgment of conviction entered yesterday, June 20, 2024. (Dkt. 590, the "Judgment"). Page three of the Judgment states that the defendant was sentenced to "Mandatory life imprisonment for Counts 1-17 for each of the four victims to run consecutive." The Government respectfully submits that this language could be interpreted as unintentionally ambiguous in two ways: (1) it could be read to incorrectly imply that life imprisonment was mandatory on all 17 counts, when it was only mandatory on Counts 10-13 and was merely the statutory maximum on the remaining counts; and (2) it could be viewed as ambiguous as to how many consecutive life sentences the Court imposed (4 or 17) and does not specify which counts are running concurrent or consecutive to one another.

Pursuant to Rule 36, the Court may "at any time correct a clerical error in the judgment . . . or correct an error in the record resulting from oversight or omission." This rule authorizes district courts to correct written judgments to conform to the orally imposed sentence, which controls. *See United States v. A-Abras, Inc.*, 185 F.3d 26, 29 (2d Cir. 1999). It is the Government's understanding that, in orally pronouncing sentence, the Court adopted the Government's proposal for the structuring of consecutive sentences as set forth in the Government's sentencing submission. (Dkt. 583). Accordingly, to avoid any unintended ambiguity in the language of the written Judgment that might create technical issues on appeal or for the Bureau of Prisons, the Government respectfully requests that the Court issue an amended judgment that replaces the "Imprisonment" language with the following, which the Government understands accurately reflects the sentence the Court imposed:

Life imprisonment on all Counts as follows: Counts 1, 2, 9, 10, and 14 to run concurrently; Counts 3, 6, 11, and 15 to run concurrently; Counts 4, 7, 12, and 16 to run concurrently; Counts 5, 8, 13, and 17 to run concurrently; and the four groups of concurrent sentences to run consecutively for a total of four consecutive life sentences.

We thank the Court for its attention to this request.

Respectfully submitted,

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cc: All counsel of record (by ECF)